

**Opening Statement of Republican Leader Cathy McMorris Rodgers  
Subcommittee on Environment and Climate Change Hearing on “TSCA and  
Public Health: Fulfilling the Promise of the Lautenberg Act”  
October 27, 2021**

*As Prepared for Delivery*

Good morning, Mr. Chairman. Good morning, too, to my colleagues and to our witness.

This hearing is about the operations of the Office of Chemical Safety and Pollution Prevention at the Environmental Protection Agency (EPA), and particularly this office’s implementation of Title I of the Toxic Substances Control Act or TSCA.

TSCA is unlike any other statute. It gives EPA broad authority to regulate the entire chain of commerce if EPA finds it necessary to control an unreasonable risk presented by a chemical substance under its conditions of use. With authority this sweeping, it’s imperative that we oversee this office and these programs.

This oversight today is even more critical because of questions raised by the new, expanded, and precautionary implementation direction being applied to the TSCA 2016 amendments.

It’s a direction that can wreak havoc on supply chains, hurt our ability to lower U.S. greenhouse gas emissions through free market solutions and innovation, make inflation worse, and hurt America’s competitive edge against China.

Five years ago, there was a consensus that certain parts of TSCA were not performing well enough and that it was hurting consumer

confidence. Attempts to create a mirror opposite of TSCA were rejected by Congress.

Instead, the 2016 TSCA amendments were intended to reset more restrictive court interpretations of TSCA, permit EPA to obtain more easily information to support its TSCA work, enforce high quality science standards on TSCA activity, and make EPA's decisions more transparent. It was not the intent to replace risk-based decision making with assessment and regulation predicated only on hazard -- precaution is not risk.

It was not intended to remove one "unreasonable risk" to create another more unreasonable risk for society. It also was not intended to shift EPA's focus from reviewing and regulating certain types of chemicals to instead regulating for other Federal agencies and EPA offices in areas where Congress did not give them explicit authority.

Most importantly, Republicans on Energy and Commerce, when we were in the Majority in 2016, did not intend regulation under TSCA to stifle innovation or interstate commerce. We also did not intend for TSCA regulations to go from least to most burdensome.

We are in the midst of a domestic supply chain crisis. We cannot afford letting an inefficient and unreasonable TSCA implementation further devastate innovation and American competitiveness. These current managerial choices hurt American leadership and the ability for people to raise their standard of living.

For example, TSCA section 5 has been long considered the gateway for American innovation. Multiple past EPA career managers of the New Chemicals Program testified to this Committee that new chemicals tended to be greener and safer

than the chemicals they are replacing. Yet, since 2016, EPA is only receiving one-third of the new chemicals applications it used to get.

And, with two-thirds of the year already past, EPA has only made 27 determinations on the 203 Pre-Manufacture Notices it has received this year. Notably, these decisions are statutorily required within no more than 180 days.

In addition, delays on EPA regulations of significant new uses of existing chemicals average 1.3 years, allowing competitors to commercialize some of these substances and defeating the purpose of issuing use conditions. Failing to provide industry the confidence they and their downstream customers need, regarding options to improve their products and compete globally, in a timely manner is a significant shortcoming of this program.

This is not a question of science or risk, this is a matter of management and that falls to the Agency and its leaders, including today's witness, Assistant Administrator Freedhoff.

I'm also concerned about the Biden Administration's stated plans to have EPA regulate items that the Occupational Safety and Health Administration and the Consumer Product Safety Commission can and should handle. This is particularly true if EPA is struggling to fulfill its basic TSCA obligations, and asking for increases in staffing and money to do so.

Making OSHA and CPSC items also subject to TSCA jurisdiction does not increase compliance, only enforcement and penalty opportunities. Again, thank you for the time and I yield back.